MANITOBA REGULATION 103/88 R

Being a Regulation under
THE WORKPLACE SAFETY AND HEALTH ACT

Respecting Hearing Conservation and Noise Control

OFFICE CONSOLIDATION

NOTICE

All persons making use of this consolidation are reminded that it has no legislative sanction; that the amendments have been embodied only for convenience of reference; and that the original Act should be consulted for all purposes of interpreting and applying the law

THE WORKPLACE SAFETY AND HEALTH ACT
(C.C.S.M. c. W210)

Hearing Conservation and Noise Control Regulation

Regulation 103/88 R
Filed January 29, 1988

Definitions

1 In this regulation,

"audiogram" means a written or printed record of hearing level as a function of frequency;

"audiologist" means a person who is an audiologist within the meaning of The Speech and Hearing Therapy Act and who is registered as a member of the Manitoba Speech and Hearing Association;

"audiometer" means an electro-acoustical device, the specifications of which meet or exceed the requirements of International Electrotechnical Commission (I.E.C.) Publication 645-1979 "Audiometers", or Canadian Standards Association (C.S.A.) Standard Z107.4-1975 (Revised 1983) "Pure Tone Air Audiometers for Limited Measurement of Hearing and for Screening" and which provides pure tones of selected frequencies at calibrated outputs, and is used to measure pure-tone air conduction hearing threshold levels;

"baseline audiogram" means the first audiogram taken by or on behalf of the current employer;

"certified industrial audiometric technician" means a person who meets the certification requirements of the Manitoba Speech and Hearing Association, or such other person who has been approved by the director;

"dBA" means the sound level in decibels as measured on a sound level meter using the "A"-weighting network and slow meter response;

"decibel" means a unit of measurement of sound pressure level and is equal to 20 times the logarithm to the base 10 of the ratio of the pressure of a sound, divided by the reference pressure of 20 micropascals;

"engineering controls" means measures, including permanent replacement, modification or elimination of noisy equipment or operations, implemented to reduce the sound levels to which a worker is exposed;

"equivalent sound exposure level" ("L_{ex}") means the steady sound level in dBA which, if present in a workplace for eight hours in one day, would contain the same total acoustic energy as that generated by the actual and varying sound levels to which a worker is taken to be exposed in the work day;

"health professional" means a certified industrial audiometric technician, occupational health nurse, audiologist, industrial hygienist, occupational health physician or otolaryngologist employed in the operation of a hearing surveillance program pursuant to sections 9 and 10;

"hearing conservation program" means a workplace hearing conservation program which includes provisions for one or more of the following:

(a) methods and procedures to assess the exposure to sound of workers,

(b) engineering controls, work practice controls, and personal hearing protectors,

(c) educational programs to inform workers and supervisory personnel of the hazards of excessive exposure to sound, the correct use of control measures and protective equipment and the conditions under which such control measures or equipment are required to be used,

(d) maintenance by the employer of personnel exposure records,

(e) provision of facilities and personnel for hearing surveillance, including audiometric testing and other relevant health examinations and clinical tests, and

(f) maintenance of confidential health records by a physician, audiologist, certified industrial audiometric technician or occupational health service engaged by the employer to provide or supervise such examinations and tests;

"hearing level" means the amount, in decibels, by which the threshold of audibility of an ear differs from the reference equivalent threshold level of the audiometer;

"hearing protector" or "hearing protection" means a sound attenuating personal protection device designed and manufactured to be worn by a person to reduce exposure to sound;

"Hertz" means a unit of frequency and is equivalent to cycles per second;

"impulse sound" means an impulsive sound caused by collision of solids or sudden pressure change in gases, either as a single pressure pulse or a single burst (multiple pressure pulses) having a duration less than one second, and with an interval between pulses greater than one second;

"noise" means sound, and for the purpose of this regulation the terms "sound" and "noise" have the same meaning;

"otolaryngologist" means a physician who is registered on the specialist register of the College of Physicians and Surgeons of Manitoba in the speciality of otolaryngology;

"periodic audiogram" means an audiogram conducted subsequent to the baseline audiogram, pursuant to section 9;

"sound level meter" means a device for measuring sound levels, the specifications of which meet or exceed the requirements for a type 2 meter as specified by International Electrotechnical Commission Publication 651-1979 titled "Sound Level Meters" or The American National Standards Institute (A.N.S.I.) S1.4 (1983) "Specification for Sound Level Meters";

"successor employer" means any employer who acquires or operates the undertaking or business of an employer who had previously implemented and maintained a hearing conservation program pursuant to this regulation;

"successor physician" means any physician engaged by an employer to replace a supervising physician in order to maintain a hearing surveillance program as required by section 9;

"supervising physician" means a physician engaged by contract with the employer to provide general supervision of the hearing surveillance program as required by clause 9(2)(a); and

"work practice controls" means the modification of operations, work practices or work cycles, implemented to reduce the duration of a worker's exposure to excessive sounds.

Application of regulation

2(1) This regulation applies to every employer and worker at a workplace where any worker is exposed, or is likely to be exposed, to sound levels greater than 80 dBA for a significant period during the work day, taking into account the limits prescribed in subsection 3(1) and section 5.

Powers of a safety and health officer

2(2) Nothing in this regulation shall be construed as limiting the powers of a safety and health officer set out in the Act or authorized pursuant to another regulation.

Assessment of exposure to sound

3(1) Where in a workplace a worker is exposed, or is likely to be exposed, to an equivalent sound exposure level greater than 80 dBA, the employer shall cause to be made and recorded, an assessment of that worker's exposure to sound.

Further assessment required
3(2) Where a change is made in any process, or in the methods or procedures being used at a workplace, and where that change may result in a significant increase in the exposure to sound of any worker, the employer shall cause to be made a new assessment of the worker's exposure to sound, within 45 calendar days of the change.

Matters to be considered
3(3) Where an assessment is required to be made under subsection (1) or (2), the assessment shall include and take into account such matters as the sound levels to which a worker is or may be exposed, the duration of such exposures, and measures implemented to reduce the worker's exposure to sound.

Consultation with committee or representative
3(4) Where an assessment is required to be made under subsections (1) or (2), the employer shall consult thereon with the workplace safety and health committee, where such a committee has been established pursuant to section 40 of the Act, or with the worker safety and health representative, where such a representative has been elected or appointed pursuant to section 41 of the Act, and the committee or representative may make recommendations with respect to the assessment.

Worker safety and health representative
3(5) Where an assessment is required to be made under subsections (1) or (2) and where neither a workplace safety and health committee nor a worker safety and health representative has been established pursuant to section 40 or 41 of the Act, the employer shall cause a worker not connected with management of the workplace to be designated in accordance with the principles of section 41 of the Act, for the purposes of this regulation.

Copy of assessment to worker
3(6) Where an assessment is required to be made under subsections (1) or (2), a correct copy of the assessment shall be provided to the worker.

Hearing conservation program required
4(1) Where an assessment conducted pursuant to subsection 3(1) or (2) discloses that a worker's exposure to sound exceeds the limit prescribed in subsection 3(1), the employer shall develop, implement and maintain a hearing conservation program in accordance with this regulation.

Consultation with committee or representative
4(2) Where a hearing conservation program is required to be implemented pursuant to subsection (1), the employer shall consult thereon with the workplace safety and health committee or a worker safety and health representative, and the committee or representative may make recommendations with respect to any aspects of the hearing conservation program.

Safety and health officer to be notified on disagreement

4(3) Where a disagreement arises between an employer and a workplace safety and health committee or a worker safety and health representative regarding the assessment of a worker's exposure to sound or the implementation of a hearing conservation program, the employer shall notify a safety and health officer, who shall investigate the matter and shall submit a written report of the findings, along with any orders that have been issued in respect of the matter, as soon as is reasonably practicable

(a) to the employer;

(b) to the co-chairpersons of the workplace safety and health committee or to the worker safety and health representative; and

(c) to the director.

Written description of program required

4(4) The employer shall provide copies of the assessments of workers' exposures to sound, and a written description of any hearing conservation program implemented in the workplace

(a) to the health professionals conducting the hearing surveillance program pursuant to subsection 9(2); and

(b) to the co-chairpersons of the workplace safety and health committee, or to the worker safety and health representative.

Written description of hearing conservation program to be posted in workplace

4(5) The employer shall cause a written description of the hearing conservation program to be posted in a conspicuous and prominent location to which workers normally have access within the workplace, and shall acquaint every worker affected by the hearing conservation program with its provisions.

Engineering and work practice controls required

5 Subject to section 6, every employer shall implement all necessary engineering and work practice controls to ensure that no worker is exposed to an equivalent sound exposure level greater than 90 dBA.

Personal hearing protection

6(1) Where it has been demonstrated to the satisfaction of the director that sound exposure controls required pursuant to section 5 are not reasonably practicable, the employer shall implement engineering and work practice controls to reduce sound levels to the lowest level which is reasonably practicable and shall provide personal hearing protection to every worker whose sound exposure exceeds the exposure limit prescribed by section 5.

Additional hearing protection

6(2) The employer shall provide personal hearing protection, upon request, to any worker exposed to an equivalent sound exposure level greater than 85 dBA.

Interim hearing protection

6(3) Where a significant period of time is required for the implementation of sound exposure controls required pursuant to section 5, or where such sound exposure controls are temporarily ineffective because of the breakdown of equipment or changes in procedures, the employer shall provide personal hearing protection to any worker whose exposure exceeds the limit prescribed in section 5.

Employer responsibilities

6(4) Where personal hearing protection is provided by an employer pursuant to subsection (1), (2) or (3), the employer shall

(a) select, provide and maintain personal hearing protectors which are capable of providing effective protection against the sounds to which the workers are exposed;

(b) inform every worker required to wear and use a personal hearing protector pursuant to this section of the potential hazards associated with excessive exposure to sound and the purpose and limitations of the protective equipment provided;

(c) provide every worker required to wear and use a personal hearing protector pursuant to this section with training and instruction regarding the proper selection, care, and use of the protector, and take all reasonably practicable steps to ensure that the worker wears the protector in accordance with instructions provided by the employer;

(d) provide every worker required to wear and use a personal hearing protector pursuant to this section with appropriate tests to ensure that the protector fits correctly and that the worker can wear or use the protector effectively;

(e) provide adequate supervision to ensure that no hearing protector is modified in such a manner as to alter its effectiveness or reduce its attenuation characteristics;

(f) provide appropriate information and training to ensure that every supervisor, foreman, chargehand, or similar person knows of every work area under his or her supervision where hearing protection is required to be worn, and the purpose and limitations of the hearing protection provided; and

(g) co-operate with workers, the safety and health committee, and others involved in the implementation and operation of the hearing conservation program.

Worker responsibilities

7 Where a worker is provided with personal hearing protection by the employer pursuant to section 6, the worker shall

(a) wear and use the protector in accordance with instructions provided by the employer;

(b) not modify the hearing protector in such a manner as to alter its effectiveness or reduce its attenuation characteristics; and

(c) co-operate with the employer, the safety and health committee, and others involved in the implementation and operation of the hearing conservation program.

GUIDE TO THE IMPLEMENTATION OF WORKPLACE HEARING CONSERVATION PROGRAMS PURSUANT TO THE MANITOBA HEARING CONSERVATION AND NOISE CONTROL REGULATION

Please note that the information contained in this Guide is not to be considered as a substitute for any provisions of the Workplace Safety and Health Act, or for any requirements prescribed by the Hearing Conservation and Noise Control Regulation. Persons using this pamphlet are advised to consult the Act and Regulations for specific details. Additional information regarding hearing conservation and noise control is available from the Workplace Safety and Health Division, 1000-330 St. Mary Ave, Winnipeg (945-3446).

What is the objective of the regulation?

The objective of the regulation is to promote the implementation of effective workplace hearing conservation programs, and thus to prevent noise-induced hearing loss and to conserve workers' hearing.

It has long been recognized that excessive exposure to sound can result in permanent and irreversible hearing loss. The only effective way of dealing with this problem is to prevent the hearing loss by controlling exposure before the damage occurs.

What is the role of the workplace safety and health committee or worker representative?

The committee or the worker representative is to actively participate at all stages in the development, implementation and maintenance of any hearing conservation program in their workplace, including the assessment of workers' exposures to sound.

At workplaces not otherwise designated as requiring the establishing of a workplace safety and health committee or worker representative, a worker representative must be appointed for the purposes of this regulation if worker exposures exceed 80 dBA (i.e. where this regulation applies). This worker representative has the same rights and duties with respect to this regulation as those assigned to a committee or worker representative by the Act.

What is noise?

Noise, or more correctly sound, is a series of vibrations or pressure fluctuations that travels through the air and is detected by the ear. The intensity or "loudness" of a sound is measured in decibels (dB), and frequency or "pitch" is measured in hertz (Hz) or cycles per second. In practice, workplace sound levels are usually measured with a device (sound level meter or noise dosimeter) which filters out much of the low and high frequency sounds (as does the human ear). The results of such measurements are frequency-weighted sound levels and are expressed as "dBA", or "A-weighted sound levels".

How is exposure to noise evaluated?

Exposure to noise in the workplace is evaluated in terms of the A-weighted sound levels (dBA) at the worker's ear, and the durations of his exposures to those sound levels (in hours per day) averaged over his work-day. The result is called the "equivalent sound exposure level" (Lex). This time-weighted average sound level represents the amount of sound-energy (or "noise-dose") to which the worker is exposed during his work-day. The equivalent sound exposure level can be measured directly, using a noise dosimeter or integrating sound level meter, or it can be calculated from measurements obtained with a sound level meter and recorded observations of exposure durations.

Table 1 shows various combinations of sound level and exposure duration which will result in equivalent sound exposure levels of 80 dBA, 85 dBA and 90 dBA. For example, exposure to 100 dBA for 0.25 hours is equivalent to an exposure of 85 dBA for 8 hours. A three decibel increase or decrease in sound level represents a doubling or halving, respectively, of sound energy. Similarly, a three decibel increase or decrease in sound level represents a halving or doubling, respectively, in allowable exposure duration. Thus 90 dBA for 8 hours is equivalent to 93 dBA for 4 hours, or 87 dBA for 16 hours. All exposures to sound levels of 80 dBA or greater must be considered in determining worker exposure.

Where does the regulation apply?

The regulation applies at any workplace where there are sound levels in excess of 80 dBA such that any worker is exposed, or is likely to be exposed, to an equivalent sound exposure level greater than 80 dBA.

At workplaces where there is reason to believe that a worker or workers may be exposed to an equivalent sound exposure level greater than 80 dBA, the employer, in consultation with the workplace safety and health committee or worker representative, must prepare a written assessment of the exposure of his workers to noise. A copy of the assessment must be provided to the committee or worker representative. Each worker found to be exposed in excess of 80 dBA must be provided with a copy of his exposure assessment.

While in many situations it will be necessary to conduct sound level measurements to determine whether or not the regulation applies, in many other situations this decision can be made on the basis of experience, existing data or subjective evaluations. For example, if it is difficult to hear verbal communications at distances of from 1 to 2 meters, it is likely that the sound level is in excess of 80 dBA. Sound level meters and technical information or assistance can be obtained from the Workplace Safety and Health Division.

What must be done:

(a) Where Worker Exposure is Less than 80 dBA?

No specific action is required. However the situation should be reviewed periodically to ensure that exposures have not increased due to increased sound levels, changes in work-practices or longer exposure durations as a result of changes within the workplace.

(b) Where Worker Exposure Exceeds 80 dBA?

A hearing conservation program must be implemented. If there is no workplace safety and health committee or worker representative, a worker representative must be appointed. An education program must be established to ensure that all workers and supervisory personnel are informed of the hazards associated with excessive exposure to noise and advised of exposure controls and precautions to be taken. A hearing surveillance program with appropriately qualified personnel must be established.

(c) Where Worker Exposure Exceeds 85 dBA?

The same requirements as (b) above. In addition, the employer is required to provide personal hearing protection (and appropriate training in its use) to any worker exposed in excess of 85 dBA, upon request by that worker.

(d) Where Worker Exposure Exceeds 90 dBA?

The same requirements as (b) above. In addition, the employer is required to implement mandatory exposure controls to reduce the workers' exposures to 90 dBA or lower.

How is worker exposure to be controlled?

The 90 dBA mandatory exposure limit is to be achieved through the use of engineering or work practice controls wherever possible. Personal hearing protection is permitted only for interim protection until more effective controls can be implemented, or where the employer can demonstrate that engineering or work practice controls are not reasonably practicable.

Where personal hearing protectors are used, they must be selected and maintained to effectively reduce worker exposure (under the protector) to less than 90 dBA. Because of demonstrated deficiencies associated with the use of these devices, they must be selected with great care. Information regarding their performance characteristics (in terms of Noise Reduction Rating (N.R.R.), and the Canadian Standards Association—Class A, B and C) is available from the manufacturers and distributors of the devices but it should be "de-rated" to reflect "real-world" performance of these devices.

Information regarding exposure controls is available from the Workplace Safety and Health Division, acoustical consultants and equipment vendors and manufacturers.

What is the purpose of hearing surveillance?

Periodic hearing tests must be provided to all workers exposed in excess of 80 dBA in order to identify any worker whose hearing may have been adversely affected:

(i) by exposures between 80 dBA and 90 dBA, where exposure controls may not otherwise be required, or

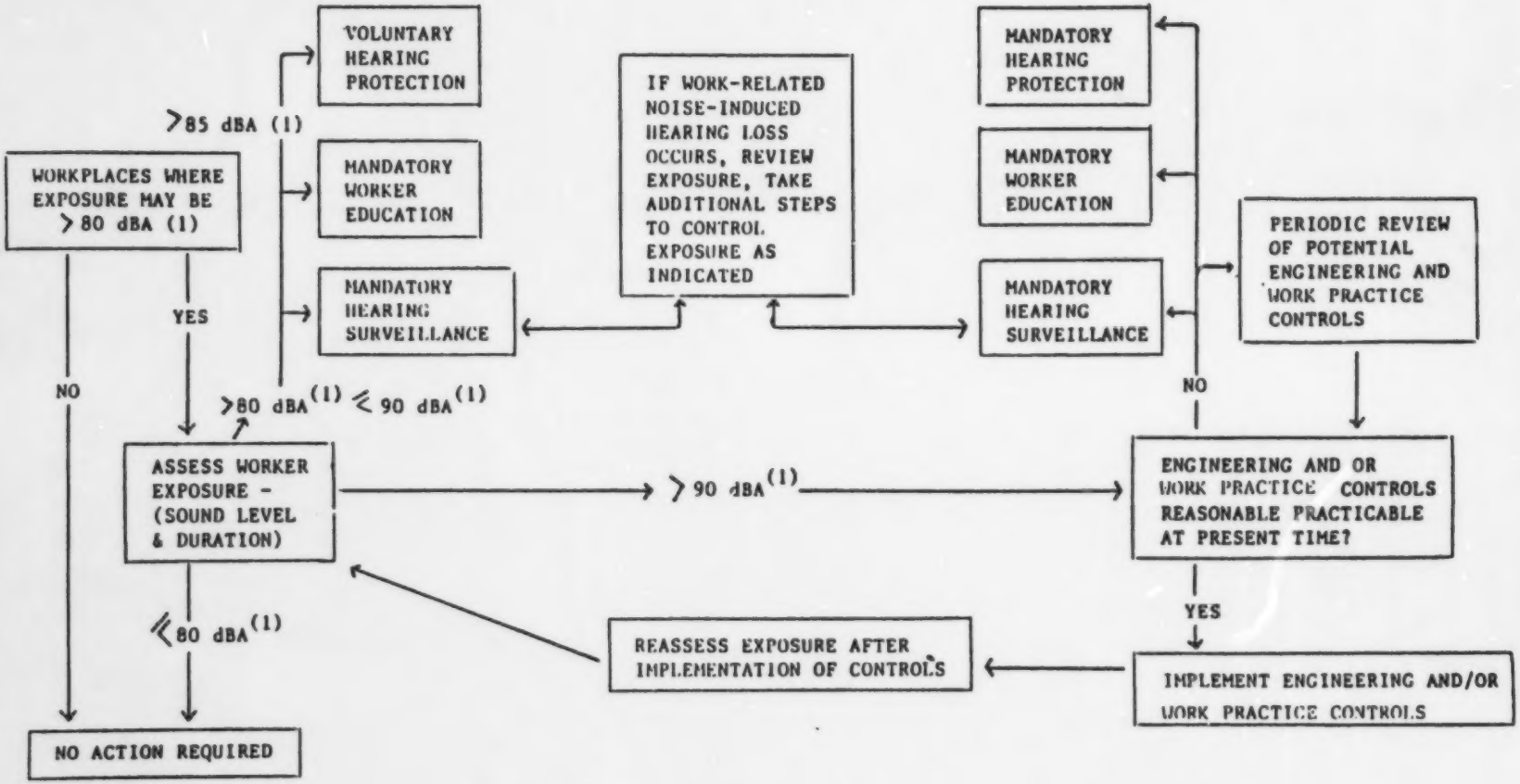
(ii) because of possible failure of exposure controls (particularly personal hearing protectors).

Where the hearing surveillance program indicates that a worker's hearing has been adversely affected as a result of conditions within the workplace, the worker's exposure must be reassessed, and additional exposure control measures must be implemented.

The hearing surveillance program must be conducted under the general supervision of a physician. Copies of each worker's test results, and an explanation of their significance, must be provided to the worker. Confidential health records, including the results of hearing tests, clinical tests and health histories are to be made available only to appropriate health professionals engaged in the hearing conservation program, to the worker and his personal physician, and to appropriate government agencies. The employer and the workplace safety and health committee or worker representative are to be provided with reports advising them of the effectiveness of measures implemented to control worker exposure to noise, and of any requirements for additional control measures.

What records must be maintained?

Records of sound exposure data, results of audiometric tests and hearing surveillance, health histories and associated reports must be maintained for the duration of the affected worker's employment plus 10 years.


VOLUNTARY HEARING PROTECTION
>85 dBA (1)
WORKPLACES WHERE EXPOSURE MAY BE > 80 dBA (1)
MANDATORY WORKER EDUCATION
MANDATORY HEARING SURVEILLANCE
IF WORK-RELATED NOISE-INDUCED HEARING LOSS OCCURS, REVIEW EXPOSURE, TAKE ADDITIONAL STEPS TO CONTROL EXPOSURE AS INDICATED
MANDATORY HEARING PROTECTION
MANDATORY WORKER EDUCATION
MANDATORY HEARING SURVEILLANCE
PERIODIC REVIEW OF POTENTIAL ENGINEERING AND WORK PRACTICE CONTROLS
YES
NO
>80 dBA(1) ≤ 90 dBA(1)
NO
ASSESS WORKER EXPOSURE - (SOUND LEVEL & DURATION)
> 90 dBA(1)
ENGINEERING AND OR WORK PRACTICE CONTROLS REASONABLE PRACTICABLE AT PRESENT TIME?
YES
≤80 dBA(1)
REASSESS EXPOSURE AFTER IMPLEMENTATION OF CONTROLS
IMPLEMENT ENGINEERING AND/OR WORK PRACTICE CONTROLS
NO ACTION REQUIRED

NOTE: (1) Sound Levels, measured as equivalent continuous sound level, Leq (see International Organization for Standardardization (I.S.O.) Standard 1999.

FIGURE 1

HEARING CONSERVATION AND NOISE CONTROL REGULATION FLOW CHART

TABLE 1

SOUND LEVEL (dBA)	EXPOSURE DURATION (hours per day, see footnote)		
	Lex = 90 MANDATORY EXPOSURE CONTROL	Lex = 85 VOLUNTARY HEARING PROTECTION	Lex = 80 HEARING TESTS WORKER EDUCATION
80	80.000	25.300	8.0000
81	63.550	20.100	6.3550
82	50.480	15.960	5.0480
83	40.090	12.680	4.0090
84	31.850	10.070	3.1850
85	25.300	8.000	2.5300
86	20.100	6.360	2.0100
87	15.960	5.050	1.5960
88	12.680	4.010	1.2680
89	10.070	3.190	1.0070
90	8.000	2.530	.8000
91	6.360	2.010	.6360
92	5.050	1.600	.5050
93	4.010	1.270	.4010
94	3.190	1.010	.3190
95	2.530	.800	.2530
96	2.010	.640	.2010
97	1.600	.500	.1600
98	1.270	.400	.1270
99	1.010	.320	.1010
100	.800	.250	.0800
101	.640	.200	.0640
102	.500	.160	.0500
103	.400	.130	.0400
104	.320	.100	.0320
105	.250	.080	.0250
106	.200	.054	.0200
107	.160	.050	.0160
108	.130	.040	.0130
109	.100	.032	.0100
110	.080	.025	.0080
111	.064	.020	.0064
112	.050	.016	.0050
113	.040	.013	.0040
114	.032	.010	.0032
115	.025	.008	.0025
116	.020	.006	.0020
117	.016	.005	.0016
118	.013	.004	.0013
119	.010	.003	.0010
120	.008	.002	.0008
121	.006	.002	.0006
122	.005	.002	.0005
123	.004	.001	.0004
124	.003	.001	.0003
125	.002	.001	.0002

NOTE: While exposure durations greater than 24 hours per day are not possible, duration times up to 80 hours per day are listed in this table to facilitate inclusion of exposures to sound levels between 80 dBA and 85 dBA in the calculation of daily sound exposure ($L_{[ex]}$).

Warning signs

8 The employer shall provide and post warning signs at conspicuous locations at the entrances to any work area where sound levels exceed or may exceed the sound exposure limit of section 5 to clearly identify that a potential sound exposure hazard exists, and to state that hearing protection is required to be worn and used in that area.

Hearing surveillance program

9(1) Where an assessment conducted pursuant to section 3 discloses that a worker is exposed to an equivalent sound exposure level greater than 80 dBA, the employer shall implement and maintain a hearing surveillance program, including relevant health histories, audiometric tests, and appropriate otologic and otoscopic examinations for workers.

Supervised and conducted by qualified personnel

9(2) Where a hearing surveillance program is required pursuant to subsection (1), the employer shall engage

(a) an occupational health physician or an otolaryngologist to provide general supervision of the hearing surveillance program and to review and diagnose suspected cases of noise-induced hearing loss pursuant to subsections (9) and (10); and

(b) a certified industrial audiometric technician, an audiologist, or an otolaryngologist to conduct audiometric tests, prepare health histories and counsel workers regarding hearing conservation and conduct other procedures, in consultation with the supervising physician engaged pursuant to clause (a).

Audiometric testing

9(3) Subject to subsection (7), a hearing surveillance program shall include an annual audiometric examination of

(a) any worker required to wear personal hearing protection pursuant to section 6; and

(b) any worker exposed to an equivalent sound exposure level greater than 80 dBA.

Audiometric test facilities and procedures

9(4) Audiometric tests shall be conducted within a facility where the octave band sound pressure levels do not exceed those specified in the following table:

OCTAVE-BAND CENTER FREQUENCY (HZ)	OCTAVE-BAND SOUND PRESSURE LEVEL (DECIBELS)
500	30
1000	30
2000	35
4000	42
8000	45

Ear examination

9(5) The hearing surveillance program shall include an annual ear examination, by a certified industrial audiometric technician, audiologist, or otolaryngologist, of any worker required to wear hearing protection pursuant to section 6.

Preplacement audiometric tests

9(6) Where a person or a worker is assigned to work in a location in respect of which an annual audiometric examination is required under subsection (3), that person or worker shall be given an audiometric examination within 70 working days before or after commencement of employment at that work location.

Variation of requirements

9(7) Where three consecutive annual audiometric examinations of a worker or group of workers indicate that no threshold shift greater than that specified by clause 9(9)(c) and attributed to noise exposure in the workplace has occurred, the employer may apply to the director, in writing, for a variation in the requirement for further annual audiometric and ear examinations of that worker or group of workers.

Test results to worker or physician

9(8) The person conducting the hearing surveillance program shall provide a copy of the results of a worker's audiometric tests to that worker, and upon written request by the worker, to a physician designated by the worker.

Referral for review and diagnosis

9(9) Subject to subsection (10),

(a) where, in the opinion of the person conducting the hearing surveillance program, the hearing of a worker has been impaired by excessive exposure to sound;

(b) where audiometric examination of a worker discloses a hearing level in either ear averaging 25 decibels or more at 1,000, 2,000, 3,000, and 4,000 Hertz on a baseline audiogram; or

(c) where audiometric examination of a worker discloses a threshold shift from the baseline audiogram of 15 decibels or more in either ear at any audiometric test frequency from 1,000 Hertz to 6,000 Hertz inclusive;

the person conducting the audiometric testing program shall, within 30 calendar days, refer the worker to the supervising physician or to an audiologist engaged by the employer to conduct diagnostic tests and to review the worker's health history and the assessment of the worker's exposure to sound.

Repeat audiometric tests

9(10) Where in the opinion of the person conducting the hearing surveillance program, the results of a worker's audiometric examination are invalid, the person shall, within 30 calendar days, conduct or cause to be conducted further audiometric and health examinations to assess the worker's hearing, and where the results of such examinations indicate a hearing impairment or threshold shift as defined by subsection (9), the worker shall be referred to the physician or audiologist as prescribed by subsection (9).

Report by physician

9(11) Where the review conducted by the physician or audiologist pursuant to subsection (9)

(a) indicates that the hearing impairment or threshold shift has occurred as the result of conditions not related to the workplace, the physician or audiologist shall submit a report interpreting the clinical findings to the worker, and recommend that the worker contact his or her personal physician for further diagnosis and treatment where appropriate; and

(b) indicates that the hearing impairment or threshold shift has occurred as the result of conditions within the workplace, the supervising physician shall submit a report on those conditions, interpreting the clinical findings and providing appropriate recommendations for remedial action to the worker, to the employer and to the audiologist or certified industrial audiometric technician within 30 calendar days after completion of the review.

Report to director

9(12) An employer who receives a report pursuant to clause (11)(b), shall provide correct copies to the director.

Health records confidential

9(13) The health records produced from the hearing surveillance program, including worker health histories, audiometric test results and the results of other health tests, shall be retained by the audiologist, certified industrial audiometric technician, occupational health nurse, occupational health physician, otolaryngologist, or other health professional and, subject to subsection (9) and subsection 10(4), are not to be disclosed in a form that could allow identification of the worker concerned, without the written permission of that worker.

Annual report regarding hearing surveillance
9(14) The supervising physician shall prepare, or shall cause to be prepared, an annual report each year, to include information regarding the number of workers examined, the number of workers referred for follow-up who were found to have hearing loss, and a summary of actions taken under the hearing surveillance program during the previous year to deal with problems.

Distribution of annual report
9(15) The supervising physician shall provide copies of the annual report prepared pursuant to subsection (14) to

(a) the employer;
(b) the certified industrial audiometric technician;
(c) the co-chairpersons of the workplace safety and health committee or worker safety and health representative; and
(d) the occupational health service, where such a service exists in the workplace.

Records
10(1) The employer shall cause to be maintained, all records and reports relating to the hearing conservation program, including reports, assessments and descriptions prepared or received pursuant to subsections 3(1) and (2), 4(4) and 9(14) and clause 9(11)(b), and sound level surveys, but excluding audiograms or other confidential health information, for the duration of the affected worker's employment plus 10 years.

Records available to the director
10(2) Upon written request, the employer shall make available to the director or to a safety and health officer, the records referred to in subsection (1).

Health professionals to maintain confidential health records
10(3) The health professional conducting the hearing surveillance program pursuant to clause 9(2)(b) or the supervising physician engaged pursuant to clause 9(2)(a) shall maintain confidential health records described in subsection 9(13) in a secure location for the duration of the affected employee's employment plus 10 years.

Records available to minister and physician
10(4) The supervising physician shall provide copies of appropriate confidential health records maintained under his or her control pursuant to subsection (3) upon written request

(a) to a physician authorized by any worker for the purpose of diagnosing or treating that worker;
(b) to a physician designated by the minister to receive such records;
(c) to the employer, successor employer, successor supervising physician or the director pursuant to subsections (5), (6), (7), (8), or (9); and
(d) to the Workers Compensation Board.

Records transferred to successor employer
10(5) An employer who ceases to operate a workplace where a hearing conservation program is required to be maintained pursuant to this regulation shall transfer or cause to be transferred all reports and records required to be kept and maintained under this regulation, including confidential health records obtained pursuant to subsections (4), (6) and (7), to the successor employer.

Successor employer to maintain records
10(6) A successor employer who receives reports and records pursuant to subsections (4) or (5) shall continue to maintain the hearing conservation records pursuant to subsection (1) and shall cause to be transmitted the confidential health records to the supervising physician or successor supervising physician.

Successor supervising physician to maintain records
10(7) Where the engagement between an employer and supervising physician pursuant to clause 9(2)(a) is terminated, the supervising physician shall transfer the confidential health records referred to in subsections 9(13) and 10(3)

(a) to a successor supervising physician; or
(b) where there is not a successor supervising physician, to the employer.

Reports and records to the director
10(8) Where an employer ceases to operate a workplace where a hearing conservation program is required to be maintained pursuant to this regulation, and where there is no successor employer, the employer shall transmit all reports and records required to be maintained under this regulation, including confidential health records obtained pursuant to subsections (4) and (7), to the director.

Notification to the director
10(9) The employer shall notify the director, in writing, at least 100 calendar days prior to the end of the retention period for the maintenance of any records as prescribed by subsection (1) or (3), and, upon written request by the director, shall transmit or shall cause to be transmitted, any such records to the director.

Review of regulation
11 In addition to the powers granted to the minister under section 14 of the Act, within four years of the coming into force of this regulation, the minister shall refer it to the Advisory Council on workplace safety and health established pursuant to section 15 of the Act for their review and recommendations.

Review by Advisory Council
12 Upon receipt of a request to review the regulation under section 11, the Advisory Council shall review the effectiveness of the regulation and shall make such recommendations to the minister as deemed necessary to ensure that the regulation is effective in conserving workers' hearing.

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